

Form No. 42-1408 (2) 2/1/88

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 263-02063

Date Received

Receipt Number

9-14-98

1024392

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Atlanta Power Company Phone (208) 764-2310
Mailing Address Box 100, Fairfield, Idaho Zip 83327
2. Date of Priority (Only one (1) per claim) October 7, 1907
3. Source of water supply (a) Middle Fork Boise River
which is tributary to (b) Boise River
4. a. Location of existing point of diversion is: Township 5N Range 11E Section 5
NE 1/4 of NE 1/4 of 1/4 Govt. Lot, BM, County of Elmore
Additional points of diversion if any: _____
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
ending point is: Township _____ Range _____ Section _____ 1/4 of _____ 1/4 of _____
1/4, Govt. Lot _____ B.M., County of _____
5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Existing diversion is from a rock-filled
dam across the Middle Fork Boise River below its confluence with the Tuba River. Water
is diverted into a 60" flume for approximately 360' into a 24' x 40' headbox, from
which it flows through a 36" penstock to the powerhouse to drive a 250 hp Francis
turbine. The original Kirby Dam washed out in 1991 and was replaced by the existing
dam in 1992.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Power, Mining & Milling purposes from 1-1 to 12-31 amount 200-00cfs or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) _____ (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 0 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Power serves the community of Atlanta, Idaho and vicinity.

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
6N	11E	35																	
5N	11E	2																	
5N	11E	3																	
5N	11E	4	POWER USE FOR ALL SECTIONS INDICATED																
5N	11E	5																	
5N	11E	11																	

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Klamore

12. Do you own the property listed above as place of use? Yes _____ No X
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
 _____ or None ()

14. Remarks: Atlanta Power Company acquired all right, title and interest in this hydropower right in 1985 from Harold Lanning via Warranty Deed, a copy of which is attached hereto as Exhibit A

(SEE ATTACHED SHEET FOR ADDITIONAL REMARKS)

Last Name Atlanta Power Company Ident No. A63-02063

Copies: White - Same, Yellow - Current

14. Remarks: (cont.) Diversion and use of water under this water right is subject to subordination to a water right to be held by the State of Idaho, Department of Fish and Game for fish passage at Kirby Dam, such subordination to be in the amounts and during the periods provided by that certain Agreement by and Between Atlanta Power Company, Inc. and the State of Idaho, Department of Fish and Game Governing Ownership and Operation of the Kirby Dam Fish Ladder dated effective July 31, 1998.

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X Permit _____
 Decree _____
 If applicable provide IDWR Water Right Number From License No. 3188 Issued to Daniel Kirby
 Court _____ Case Number _____ Decree Date _____
 Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
 "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____
 wish to receive and pay a small annual fee for monthly copies of the docket sheet.
 Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true
 and correct.

Signature of Claimant (s) _____

Date _____

Date _____

For Organizations: I do solemnly swear or affirm that I am President

Title _____

of Atlanta Power Company

Organization _____

that I have signed the foregoing

document in the space below as its authorized signator

of _____

Title _____

Organization _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature]

Title and Organization

President, Atlanta Power CompanyDate 9-14-98

State of Idaho/or _____)
 County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 14th day of September 19 98

SEAL

Notary Public [Signature]Residing at Meridian IDMy Commission Expires 9-14-2000

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf
 of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
 should be mailed to me at the address listed below.

Signature _____

Address _____

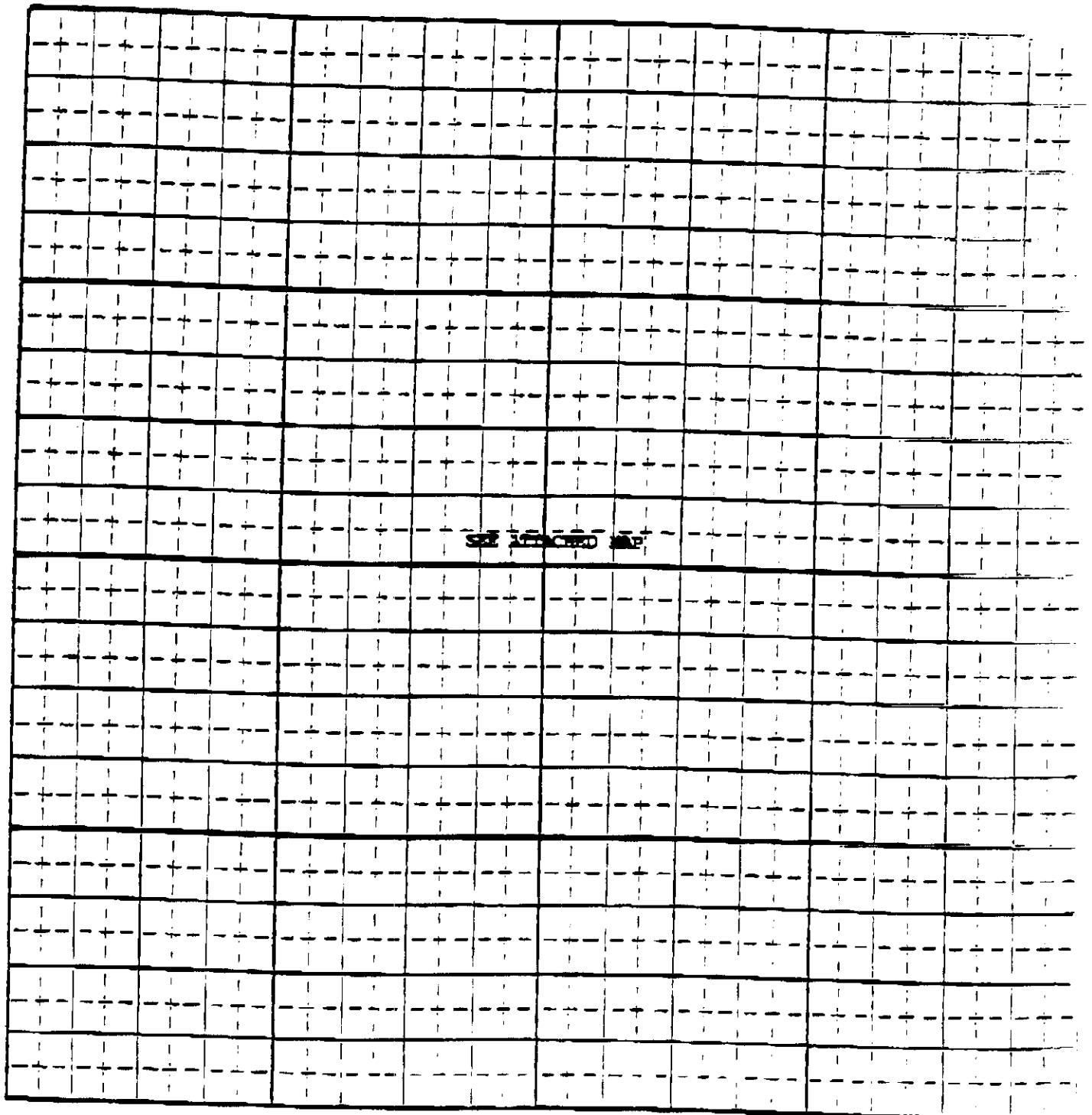
Date _____

Last Name _____ Ident. Number _____

Colors: White-Steel, Yellow-Cement

Map of Project show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

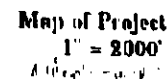


Last Name Atlanta Power Company Ident No. A63-02063

Coquest: White-Gray, Yellow, Claret

Mar. 1, 2004 4:09PM ID ATTY GEN, NAT RES

427



312

.....
 ore County *
 llo Boise River *
 200 ft. *
 ing & Milling *
 rity - 10-7-07 *

STATE OF IDAHO

Water License No. 3100.

 WHEREAS, On the 7th day of October, A. D. 1907, DANIEL KIRBY, of Atlanta, County of Elmore and State of Idaho, duly made application (No. 14-17) to me for a permit to use 200 cubic feet per second of the waters of Middle Boise River, County of Elmore, State of Idaho, for mining and milling purposes;

WHEREAS, On the 12th day of October, A. D. 1907, Permit No. 3100 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein required on or before the 12th day of October, A. D. 1908, and for the application to beneficial use of said water on or before the 12th day of October, A. D. 1908, and,

WHEREAS, On the 3rd day of June, A. D. 1908, the holder of said permit duly made proof of the completion of adequate works for the diversion of 200 cubic feet per second of said waters, as evidenced by my Certificate No. 3100, dated July 15, 1908, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 200 cubic feet per second of water, of date of priority of October 7, 1907, and,

WHEREAS, On the 3rd day of June, A. D. 1908, proof was duly made of the application to beneficial use of 200 cubic feet per second of said water;

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I do hereby grant and confirm to DANIEL KIRBY, of Atlanta, Idaho, the holder and owner of said Permit No. 3100, a perpetual right, dating from October 7, 1907, to the use of 200 cubic feet per second of the waters of Middle Boise River in the County of Elmore, State of Idaho.